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**TESTIMONY OF CONNECTICUT LEGAL SERVICES, INC.  
 IN SUPPORT OF SB 325, AN ACT CONCERNING  
 THE COMMISSION ON CHILD PROTECTION**

Good afternoon Senator McDonald, Representative Lawlor, and distinguished members of the Judiciary Committee. My name is Pamela Heller, and I am a legal and social work intern with Connecticut Legal Services, Inc. (CLS). I am testifying on behalf of the Children at Risk Unit of CLS, which provides legal representation to low-income families who have children with disabilities, primarily to assist in obtaining access to special education and mental health services. CLS attorneys have also represented children in child protection matters in the role of both attorney and guardian ad litem (GAL).

**I am testifying in support of SB 325, An Act Concerning the Commission on Child Protection.**

**Senate Bill 325, Section 3** clarifies the role of attorneys appointed for children over the age of seven in child protection cases. The law currently requires that children who are the subject of a child protection case be appointed a representative to serve as both attorney and GAL. **SB 325** requires that a representative appointed for a child over seven be appointed to serve only as attorney, guided by the Rules of Professional Conduct.

Without the changes made by **SB 325**, an attorney appointed for a minor child must balance two roles with potentially conflicting mandates. Acting as attorney, the appointed counsel must follow the Rules of Professional Conduct which require attorneys to advocate for a child just as for an adult.<sup>1</sup> When a client is capable of making his or her wishes known, the attorney acts in accordance with those wishes.

A GAL, on the other hand, is not a partisan advocate, but rather acts more like a witness informing the court of the child's best interests. A GAL considers the emotional, physical, and moral needs of a child. They may not represent the child's wishes, nor may they offer legal advice to the child. As evidence of the distinct role envisioned for the GAL, it is not necessary to be an attorney to be appointed as GAL.

Under the current structure, the burden is on appointed counsel to request the appointment of a GAL when the two roles cannot be discharged simultaneously. Making such a request, however, disadvantages the child

<sup>1</sup> Rule 1.14, Rules of Professional Conduct.



by sending a clear signal to the court that the attorney believes that what the child wants is not in the child's best interest.

As recognized by the Connecticut Appellate Court, "the legal rights of a child often may be distinct from the child's best interest" *In re Tayquon H.*, 76 Conn. App. 693, 706 (2003). **SB 325** protects children by ensuring that appointed counsel will be able to advocate for children's legal rights.

To allay concerns that some children as young as seven may not be able to make decisions regarding their legal rights, the Rules of Professional Conduct provide attorneys with guidance on requesting guardians for these clients.<sup>2</sup> As suggested by Yale Law Professor Jean Koh Peters, attorneys should rely on independent evidence in determining whether the Rules require requesting a guardian for a child client.<sup>3</sup> Children will be protected more effectively when attorneys rely on the guidance of the Rules and independent evidence in representing children in child protection matters, as opposed to making an impossible separation between conflicting roles.

In conclusion, Connecticut Legal Services, Inc. strongly encourages the Judiciary Committee to support **SB 325** to safeguard children's rights.

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<sup>2</sup> *Id.*

<sup>3</sup> Peters, Jean Koh. *The Roles and Content of Best Interests in Client-Directed Lawyering for Children in Child Protective Proceedings*. 64 *Fordham L. Rev.* 1505, 1509 (1996).